

**UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE**

<p>MICROSOFT CORP., Plaintiff,</p> <p>v.</p> <p>ALCATEL LUCENT ENTERPRISE and GENESYS TELECOMMUNICATIONS LABORATORIES, INC. Defendants.</p>	<p>Civil Action No. 07-090-SLR Hon. Sue L. Robinson</p> <p>JURY TRIAL DEMANDED</p>
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DECLARATION OF WILLIAM H. BECKMANN, PH.D.

I, William H. Beckmann, Ph.D., declare:

1. I, William Beckmann, Ph.D., have been retained by counsel for Microsoft Corporation ("Microsoft") to analyze and investigate certain issues relating to U.S. Patent Nos. 6,263,064 ("the '064 patent"), 6,728,357 ("the '357 patent"), 6,421,439 ("the '439 patent") and 6,430,289 ("the '289 patent") (collectively, "the Microsoft Patents") asserted by Microsoft against Defendants Alcatel-Lucent Enterprise ("ALE") and Genesys Telecommunications Laboratories, Inc. ("Genesys"). I have personal knowledge of the matters stated in this declaration and would testify truthfully to them if called upon to do so.

2. I have nearly thirty years of experience in the telecommunications field, including unified communication systems and computer telephony. Between 1995 and 1999, for example, I served as a Vice President at IBM Corporation responsible for Broadband digital solutions and digital video systems and headed the team responsible for IBM's corporate strategy for digital broadband. Between 1984 and 1989, I served as a manager at Bell Communications Research responsible for integrating ISDN and Advanced Intelligent Networks and for the design of multimedia network systems. Between 1980 and 1984, I served as a manager and a lead systems engineer at Bell Laboratories, where I created and managed a group responsible for systems

integration of packet-switched data networks with voice networks and also designed and developed fast packet switching systems for voice and data traffic. During that time, I also served as an adjunct professor of Telecommunications Engineering at Rensselaer Polytechnic Institute. I received a bachelor's degree in Mathematics from Davidson College in 1972, a master's degree in mathematics from Cornell University in 1974, and a Ph.D. in mathematics from Cornell University in 1980. Additional information regarding my technical background is included in my resume, which is attached hereto as Exhibit A.

3. I understand that a reference may be considered “material” if a reasonable patent examiner would have considered it important in deciding whether to allow a patent application, or if the reference establishes, by itself or in combination with other information, a *prima facie* case of patentability of a claim.

4. I have reviewed the Microsoft Patents, the prosecution histories of the Microsoft Patents, the prior art cited in those prosecution histories, including the Brennan patent and the DeSimone patent, and the depositions of the prosecuting attorneys.

5. It is in my opinion that the DeSimone patent would not have been material to the ‘439 patent application.

6. During prosecution of the ‘439 patent application, Microsoft distinguished cited prior art by specifically noting that the ‘439 patent teaches “[t]he ability to process an incoming call on a telephone network according to activity on a computer network. . . .” [See ‘439 PH (p.14 of 12/28/01 response to ‘439 office action).] The ‘439 patent was allowed based on this position.

7. In my opinion, the DeSimone patent does not teach either (1) monitoring the activity of the caller or callee or (2) processing a call based on the status of the monitored activity. The DeSimone patent involves a situation entirely different from that of the ‘439 patent. As opposed to monitoring activity to determine whether a call should be connected to the caller (as is the case in the ‘439 patent), the DeSimone patent “uses an affirmative request from both participants to initiate the call in an anonymous manner through a broker.” [See ‘289 PH (p.

11 of 3/1/02 response to '289 office action).] No such monitoring is implied by or can be inferred from the DeSimone patent precisely because both participants have already elected to initiate the call.

8. After considering the DeSimone patent, the examiner of the '289 patent application stated in the notice of allowance for the '289 patent: "The prior art fails to show applicant's step of monitoring the activity of the called and calling parties while on the computer network (Internet)." [See '289 PH (03/25/02 Reasons for Allowance of the '289).]

9. In my opinion, in view of Microsoft's remarks during the '439 patent application, the examiner's Reasons for Allowance of the '289 patent, and the DeSimone patent itself, a reasonable examiner would not have considered the DeSimone patent important in deciding whether to allow the '439 patent.

10. In my opinion the Brennan patent would not have been material to the '289 patent application.

11. During prosecution of the '289 patent application, Microsoft specifically noted that "[t]he [called party's] activity on the network is monitored." [See '289 PH (pg 11 of 3/1/02 response to '289 office action).] Microsoft also explained during prosecution of the '289 patent application that the determination of whether the called party is available to take the call requires "information regarding the monitored activity of the user computer of the second party" [See '289 PH (pg 12 of 3/1/02 response to '289 office action).]

12. In my opinion, the Brennan patent does not depend on monitored activity. During prosecution of the '439 patent application, Microsoft explained that the Brennan patent teaches that the flow of information regarding how to process a call is fixed. In other words, in the Brennan patent, the determination of whether to connect a call is not dependent on any particular status or activity. This is evidenced by the requirement in the Brennan patent that the user call a special number to access or change the user requirements for different callers. [See Brennan col.13 11.7-15.]

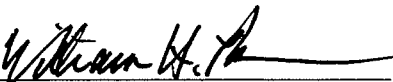
13. The Brennan patent teaches that the criteria for determining how to process a call does not change unless the user expressly changes the user requirements (or requests such changes be made by a system operator). [See Brennan patent at col. 13 11.14-1 6.] However, in my opinion, monitoring computer activity, as taught in the '289 patent, eliminates this need of the called party to make such change requests. Thus, in my opinion, the Brennan patent is markedly different from the monitored activity system taught in the '289 patent.

14. In view of Microsoft's remarks during the '289 patent application and the fact that the Brennan patent does not address the teaching of the '289 patent, a reasonable examiner would not have considered the Brennan patent important in deciding whether to allow the '289 patent.

15. It is my opinion that the '289 and '439 patents teach different inventions with differing specifications.

I declare under the penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed this 9th day of May 2008 in Washington, D.C.

Respectfully submitted,


William H. Beckmann, Ph.D.,

CERTIFICATE OF SERVICE

I hereby certify that on May 9, 2008 I electronically filed with the Clerk of Court the **DECLARATION OF WILLIAM H. BECKMANN, Ph.D.** using CM/ECF which will send notification of such filing to the following individuals, who were also served via e-mail:

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/s/ Thomas L. Halkowski
Thomas L. Halkowski

Exhibit A

William H. Beckmann, Ph.D.
Curriculum Vitae

Professional Summary

Dr. Beckmann has almost thirty years of academic and industry experience focused in the fields of communications networks and information technology. He has been responsible for managing and solving business and technical issues in these fields. Dr. Beckmann is an expert in all aspects of broadband network and software technologies and their implementation into advanced communications networks. He has had experience in strategic planning, marketing, business development, technical development, deployment, and management of these technologies and networks.

Expertise

- Advanced Intelligent Networks
- Broadband Communications
- Digital Networking Technologies
- Digital Video Systems
- Distributed Processing Systems
- Network Architecture
- Network Management & Operations
- Software Design & Architecture

Education

<u>Year</u>	<u>College or University</u>	<u>Degree</u>
1980	Cornell University	Ph.D., Mathematics
1974	Cornell University	M.S., Mathematics
1972	Davidson College	B.S., Summa cum Laude, Mathematics

Professional Experience

From: 1999
 To: Present
 Organization: Networking Computing Associates
 Title: President and Co-Founder
 Summary: Network Computing Associates (NCA) is a consulting firm that provides expertise to companies and organizations in making or executing decisions that involve network and information technologies and their integration into the company's business processes. NCA Clientele includes:

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Curriculum Vitae

- Big Think, New York, NY
- Burst.com, San Francisco, CA
- Federal Communications Commission, Washington, DC
- General Electric, Fairfield, CT
- IBM, Somers, NY
- Lucent Technologies, Inc., Murray Hill, NJ
- Sorceron, New York NY
- Zoologic, New York, NY

From: 1995

To: 1999

Organization: IBM Corporation

Title: Vice President

Summary: Dr. Beckmann was responsible for broadband digital solutions and marketing, sales, deployment and development of digital video systems. In 1997, he headed the team that constructed the IBM corporate strategy for digital broadband. Accomplishments include:

- Took a digital video development level project into a global sales & distribution project known as Video Enabled Solutions (VES), with sales teams and support groups throughout the world. VES tied together teams in IBM Global Services, IBM's Systems Integration Division with the IBM Telecommunications & Media sales division. This project included development and sales of the IBM Media Streamer, a Unix-based server that could concurrently stream hundreds of digital broadband channels over cable or DSL transmission systems; and implementation and deployment of this server into a full digital network infrastructure, including operational and management support systems and integration of those systems with other similar systems that the customer may have already installed. Total new revenues for IBM from 1996 to 1998 exceeded \$120M.
- The Digital Broadband Strategy, presented to IBM's Chief Technology Council in 1997, addressed how every one of IBM's product, sales, and development groups should approach and assess arising broadband opportunities, and what those opportunities were likely to be. The strategy proposed what alliances IBM should seek and what new lines of business IBM should consider pursuing. The strategy covered all of IBM's technologies, from microelectronics through servers, software, and database and storage systems.

William H. Beckmann, Ph.D.
Curriculum Vitae

From: 1989
To: 1995
Organization: Ameritech
Title: Manager and Director in Corporate Strategy
Summary: Dr. Beckmann had responsibilities in development and deployment of advanced information technologies and multimedia systems. He was the lead in corporate strategy for the merger of five information, accounting, and billing systems of Ameritech's Bell Operating Companies into a single networked system. This effort consolidated Ameritech's various databases, CSR systems, and billing system that were spread out over the five Bell Operating Companies that comprised Ameritech, into a single comprehensive, integrated system. This involved geographical consolidation as well as software & IT consolidation for systems that were mission-critical and 24/7.

To achieve this required:

- Creation of a hot standby system that fully duplicated the data in the existing system in real time.
- Implementation of a high-speed network architecture linking the dispersed systems: the geographical consolidation was initially virtual- enabled by this high-speed networking. This network also fed the standby system.
- Development of an intermediate layer of software that allowed the legacy system software to run as always and permitted insertion of a new interface software layer that made CSR and other agent system interactions consistent and uniform throughout the RBOC service area. This software layer was object-oriented and represented the largest OO software deployment in the country at that time (1989/1990).

As an enhancement to its voice and data transport services, Ameritech considered moving into application transport services that required higher bandwidth: these applications were multimedia in nature. In particular, Ameritech was interested in services that could successfully compete with cable services. This required identification of potential sources of these services: broadcast services, such as those carried by cable, were not legally permitted for the RBOCs. To identify and attract such sources as well as to specify the requirements for the digital content, from a source perspective as well as from a consumer perspective, necessitated execution of the following technical program:

- Analysis of network transmission capabilities applied to actual subscriber loop data (1991 - 1992)
- Mapping of MPEG requirements to ADSL-based and SONET-based benchmarks (1990 - 1992)
- Design of network management systems for support and management of

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Curriculum Vitae

broadband services

- Trial and Comparison of Fiber-to-the-Home and ADSL delivery of Video-on-Demand and Interactive Video Applications (Geneva Lakes WI, 1992)

From: 1984
To: 1989
Organization: Bell Communications Research (Bellcore)
Title: Manager
Summary: Dr. Beckmann was responsible for integration architectures of ISDN and Advanced Intelligent Networks (AIN) and for design of multimedia network systems (including broadband networks). This work encompassed technology, service, and business issues. Special areas of focus included: (1) remote management, operations, and programming of network nodes (switches, digital cross-connect systems, and data base management systems), software languages and interfaces for such remote systems, and uniform operational and management interfaces to multi-vendor environments; and (2) assessment and, where appropriate, migration of AIN design templates to ISDN and BISDN configurations.

Dr. Beckmann also served as the Bellcore graduate school recruiter in electrical engineering and computer science at the University of Southern California (Los Angeles).

From: 1980
To: 1984
Organization: Bell Laboratories
Title: Manager (1983-1984) and Member of Technical Staff (1980-1983)
Summary: During his time at Bell Labs, Dr. Beckmann was responsible for:

- Queuing theoretical analysis and algorithmic development for automatic call distribution systems
- System design and development (as the lead systems engineer) of a Fast Packet Switching system that digitized and packetized voice and multiplexed and switched voice and data traffic (predecessor of ATM technology)
- Creation and management of a group responsible for systems integration of packet-switched data networks with voice networks

William H. Beckmann, Ph.D.
Curriculum Vitae

From: 1982
To: 1982
Organization: Rensselaer Polytechnic Institute
Title: Adjunct Professor of Telecommunications Engineering

From: 1979
To: 1980
Organization: Middlebury College
Title: Assistant Professor of Mathematics and Computer Science and Mellon Fellow

From: 1977
To: 1979
Organization: Middlebury College
Title: Assistant Professor and Mellon Fellow

From: 1978
To: 1978
Organization: Harvard Medical School
Title: Adjunct Professor of Mathematics in the Medical Sciences

From: 1976
To: 1977
Organization: Cornell University
Title: Instructor in Mathematics

From: 1972
To: 1976
Organization: Cornell University
Title: National Science Foundation Graduate Fellow

Consulting Experience

From: 2006
To: 2006

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Curriculum Vitae

Organization: Steptoe & Johnson
Summary: Provided technical consulting in Vonage v. Verizon

From: 1999
To: 1999
Organization: Federal Communications Commission
Summary: Technology and Business consulting on Broadband and Wireless systems

From: 1995
To: 1996
Organization: British Telecom
Summary: Business and technical consulting on engineering and deployment of ADSL and fiber systems, including switching and transmission facilities and information technology, and the underlying network management infrastructure

From: 1992
To: 1993
Organization: Ameritech Development Corporation
Summary: Provided technical and business due diligence analysis and report regarding ADSL and Amati Communications

Litigation Support Experience

Expert Engagement:

Type of Matter: Trade Secrets
Law Firm: McGrane Greenfield LLP
Case Name: Jasmine Networks, Inc. v. Sehat Sutardga, Marvell Semiconductor, Inc.
Services Provided: Expert Witness
Disposition: Ongoing
Date: 2007 -

Expert Engagement:

Type of Matter: Patent Infringement
Law Firm: Bingham McCutchen and Heller Ehrman LLP
Case Name: Inline Connection Corporation v. EarthLink, Inc.
Services Provided: Research; Expert Report; Testified at deposition and trial.

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Disposition: Concluded
Date: 2005-2007

Expert Engagement:

Type of Matter: Patent Infringement
Law Firm: Heller Ehrman LLP
Case Name: Inline Connection Corporation v. CONTEL of the South Inc., GTE Southwest Inc., GTE.NET LLC, Telesector Resources Group, Inc., Verizon Internet Services, Inc. et al
Services Provided: Retained. Research. Case is on hold. Telecommunications\Networking Technology
Disposition: Continued pending outcome of Inline Connection Corporation v. EarthLink, Inc. above
Date: 2005-Present

Expert Engagement:

Type of Matter: Patent Infringement
Law Firm: Steptoe & Johnson
Case Name: USA Video Technology Corp. (US Video On Demand) v. MovieLink (partners: WB, Paramount, MGM, Universal Studios, Sony Pictures)
Services Provided: Research; Expert Report; Deposition
Disposition: Settled
Date: 2004 - 2005

Professional Affiliations

- Member, AMS (American Mathematical Society)
- Member, MAA (Mathematical Association of America)
- Member, AAAS (American Association for the Advancement of Science)
- Member, IEEE (Institute of Electrical and Electronics Engineers)
- Member, ACM (Association of Computing Machinery)

Patents & Publications

<u>Patent</u>	<u>Date Issued</u>	<u>Description</u>
6,675,388	2004	Data distribution system using coordinated analog and digital streams.

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Presentations

Related to xDSL Technology

1. Panel Member, IEEE Conference on Digital Subscriber Line (DSL) Technologies, San Jose (1992)
2. "Asymmetric Switching Requirements in Digital Switching Systems Generated by ADSL Deployment," invited address at AT&T Conference on Advanced Switching System Technologies, Chicago (1991)
3. "Issues in Preparing for ADSL and HDSL Implementation," talk presented to Regional Bell Operating Company (RBOC) engineers, Chicago (September 1989)
4. "Impact of Digital Processing Requirements for ADSL Deployment in the Intelligent Network," talk presented to Bellcore (September 1988)

Related to General Broadband Technologies and Voice/Data Integration Technologies

1. "Comparison of High Definition Video Alternatives within IP Networks," Joint presentation with Dr. Michael Haley to IETF reviewing Internet-2 (1997)
2. "Management and Operations in a Network Supporting Voice, Data, and Video," Presentation to STET and Telecom Italia, Rome (1996)
3. "FDDI and ATM Network Comparisons and Interfaces," Invited Presentation to Digital Equipment Corporation, Boston (1990)
4. Keynote Address on Digital communications systems and applications at the IEEE International Conference on Digital Communications, Stuttgart (1988)
5. Presentation on "Digital Broadband Networks and Multimedia Applications" at International ISDN Conference in London (1987)
6. "Recommendation for Protocol Headers in Voice Packets," Presentation to Study Group XVIII, CCITT, Geneva (September 1983)
7. "Transport of Voice Streams in an X.25 Network," Presentation to JWG (Study Group VII/XI), CCITT, Washington (June 1983)

Articles and Memoranda

1. "Business and Technical Analysis of Proposed Ethernet Network and IEEE 802.6 Extensions through a WAN," consulting memo for Lucent Technologies (November 1999)
2. "Decisions, Decisions: Digital data broadcasting can provide new revenue streams for telcos, cable companies and DBS service providers," *Telephony* (October 1997)
3. "Online Data Base Systems Using Broadband Networks to Displace Storage Devices," Joint technical memorandum (IBM) with Dr. Ahmed Tantawy (1996)
4. "Stochastic Comparison of Trellis Encoding Parameters," Technical Memorandum (written at Bell Labs, published in Bellcore) (1985)

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5. "Performance Analysis of Alternatives in Interconnection of Optical Core Switching Matrices," Technical Memorandum, Bell Telephone Laboratories (1983)
 6. "Modifying Banyan Switches to Emulate StarLite Switching Functionality," Technical Memorandum, Bell Telephone Laboratories (1982)
 7. "High Density Wave Division Multiplexing in Optical Fiber Transmission and Switching Systems: A Mathematical Model," Technical Memorandum, Bell Telephone Laboratories (1982)
 8. "Burst Switching and Jitter in Packetized Voice," Technical Memorandum, Bell Telephone Laboratories (1982)
 9. "A Mathematical Model for Discrete Embedding and Extraction of Waveforms," Technical Memorandum (Bell Telephone Laboratories), 1982
 10. "Buffer Caching Requirements in a Packetized Voice Network," Technical Memorandum, Bell Telephone Laboratories (1981)
 11. "Synchronizing Packet Streams over a Multi-Routing Packet Network," Technical Memorandum, Bell Telephone Laboratories (1981)

Other

1. Co-host, IEEE Globecom "Communications for the Information Age," Hollywood, FL (1988)